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9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11
12 PAMELA McKENZIE,) Case No.: 1:20-cv-00327-BAK (SS)
13 Plaintiff,)
14 vs.) **STIPULATION AND ORDER THE**
15) **AWARD AND PAYMENT OF**
16 KILOLO KIJAKAZI,) **ATTORNEY FEES AND EXPENSES**
Commissioner of Social Security,) **PURSUANT TO THE EQUAL ACCESS**
17) **TO JUSTICE ACT, 28 U.S.C. § 2412(d),**
) **AND COSTS PURSUANT TO 28 U.S.C. §**
) **1920**
18 Defendant.)
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1 IT IS HEREBY STIPULATED by and between the parties through their undersigned
2 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses
3 in the amount of NINE THOUSAND NINE HUNDRED dollars and NO cents (\$9,900.00) under
4 the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d) AND no costs under 28 U.S.C.
5 § 1920. This amount represents compensation for all legal services rendered on behalf of
6 Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920;
7 2412(d).

8 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
9 the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560
10 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will
11 depend on whether the fees are subject to any offset allowed under the United States Department
12 of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will
13 determine whether they are subject to any offset.

14 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
15 that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees,
16 expenses and costs to be made directly to Plaintiff's counsel, pursuant to the assignment executed
17 by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.

18 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
19 attorney fees, and does not constitute an admission of liability on the part of Defendant under
20 the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from,
21 and bar to, any and all claims that Plaintiff and/or counsel including counsel's firm may have
22 relating to EAJA attorney fees in connection with this action.

23 This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security
24 Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

25 This also serves as notice that Plaintiff withdraws her Motion for Attorney's Fees (Dkt.
26 No. 25).

1 Date: January 13, 2022

PENA & BROMBERG

2 By: /s/ Caspar Chan for Jonathan Pena*
3 JONATHAN PENA
4 *Authorized by email on January 13, 2022
Attorneys for Plaintiff

5 Date: January 13, 2022

6 PHILLIP A. TALBERT
Acting United States Attorney

7 By: /s/ Caspar Chan
8 CASPAR CHAN
9 Special Assistant United States Attorney
Attorneys for Defendant

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11 ORDER

12 Based upon the parties' Stipulation for the Award and Payment of Equal Access
13 to Justice Act Fees, Costs, and Expenses, filed on January 13, 2022 (Doc. 26):

14 **IT IS ORDERED** that fees and expenses in the amount of NINE THOUSAND NINE
15 HUNDRED dollars and NO cents (\$9,900.00) as authorized by the Equal Access to Justice Act
16 (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920 be awarded subject to the terms
17 of the Stipulation.

18 Further, as a result of this order, the Clerk of Court is directed to terminate Plaintiff's
19 motion for attorney fees (Doc. 25.)

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21 IT IS SO ORDERED.

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23 Dated: January 17, 2022

/s/ Barbara A. McAuliffe
24 UNITED STATES MAGISTRATE JUDGE